



**Request for City Council Committee Action  
From the Department of Community Planning & Economic Development**

**Date:** January 8, 2004

**To:** Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee

**Prepared by:** Hilary Watson, Senior City Planner, (612) 673-2639

**Approved by:** Barbara Sporlein, Director, Planning

**Subject:** Appeal of the decision of the City Planning Commission by the The Nicollet Island - East Bank Neighborhood Association and the Old St. Anthony Association

**Previous Directives:** At the November 17, 2003 City Planning Commission meeting, six of the Planning Commission members were present. All six Planning Commissioners voted to approve the variance to reduce the required number of off-street parking spaces for a live theater from 13 to 0.

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| <b>Financial Impact:</b> Not applicable |
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| <p><b>Community Impact:</b></p> |
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| <p><b>Ward:</b> 5</p> |
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| <p><b>Neighborhood Notification:</b> The Nicollet Island-East Bank Neighborhood Association was notified on October 24, 2003 of the proposed land use applications submitted by the T.H.E. Theater and the Wash &amp; Brush Up Company. As of the City Planning Commission hearing staff had not received a response from the neighborhood organization.</p> |
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| <p><b>City Goals:</b> See staff report</p> |
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| <p><b>Comprehensive Plan:</b> See staff report</p> |
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| <p><b>Zoning Code:</b> See staff report</p> |
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| <p><b>Living Wage/Job Linkage:</b> Not applicable</p> |
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| <p><b>Other:</b> Not applicable</p> |
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**Background/Supporting Information:** The Nicollet Island - East Bank Neighborhood Association and the Old St. Anthony Association have filed an appeal of the decision of the City Planning Commission. The appeal is associated with the decision of the City Planning Commission to approve the variance to reduce the required number of off-street parking spaces for a live theater from 13 to 0. The minutes from the November 17, 2003 City Planning Commission meeting are attached.

The appellants have stated that the decision is being appealed because they don't believe that the parking situation has been resolved nor has the applicant met with the neighborhood groups to

discuss the parking variance. The appellant's complete statements of the action being appealed and reasons for the appeal are attached.

**Excerpt from the  
Monday, November 17, 2003  
CITY PLANNING COMMISSION  
MINUTES  
317 City Hall  
Minneapolis, MN 55415  
4:30 p.m.**

**10. T.H.E. Theater and the Wash & Brush Up Company (BZZ-1408, Ward 5), 509 and 513 Central Avenue NE (Hilary Watson).**

**A. Conditional Use Permit**

Application by Mark Webb, on behalf of T.H.E. Theater and the Wash & Brush Up Company for a conditional use permit to allow a live theater located at 509 Central Avenue Northeast.

**Motion:** The City Planning Commission **approved** the conditional use permit to allow a live theater located at 509 Central Avenue Northeast subject to the following conditions:

1. The CPED Planning Division shall review and approve the final elevation plan that shows where the windows will be located.
2. At least thirty percent of the wall between 2 and 10 feet that faces the street shall be windows of clear or lightly tinted glass that allow views into and out of the building.
3. The space between the applicant's property and the adjacent Totino's restaurant shall be cleaned up and a new decorative metal fence shall be installed between the two properties in order to keep people and litter out of the space. A fence shall be installed at each end of the narrow opening.
4. Proper lighting shall be installed near every entrance and exit.

**B. Variance**

Application by Mark Webb, on behalf of T.H.E. Theater and the Wash & Brush Up Company for a variance to reduce the required number of off-street parking spaces for a live theater from 13 to 0 for the property located at 509 Central Avenue Northeast.

**Motion:** The City Planning Commission adopted the findings and **approved** the variance to reduce the required number of off-street parking spaces for a live theater from 13 to 0 for the property located at 509 Central Avenue Northeast.

**C. Variance**

Application by Mark Webb, on behalf of T.H.E. Theater and the Wash & Brush Up Company for a variance to reduce the required number of off-street parking spaces for a salon from 4 to 0 for the property located at 513 Central Avenue Northeast.

**Motion:** The City Planning Commission adopted the findings and **approved** the variance to reduce the required number of off-street parking spaces for a salon from 4 to 0 for the property located at 513 Central Avenue Northeast.

Staff Hilary Watson: This is an application for the building at 509, 511 and 513 Central Avenue Northeast. The address that is related to 511 are the upper two floors of the building, which is not part of this development. The applicant and his partners are proposing to convert the first

floor of the building into a live theater and a hair salon including nails, facials, and other things. Three applications are required: one is a conditional use permit to allow a live theater, the next two are parking variances. The theater's parking requirement is 13 and the salon's parking requirement is 4. There is no parking available on the site, so they are asking to vary both of those to zero. We are recommending approval of all three. This is a location within the comp plan that is located near an activity center. Central Avenue is a community corridor and Hennepin Avenue is a commercial corridor up to the point where it intersects with Central. The comprehensive plan policies that support this development call to encourage reinvestment along major urban corridors as a way of promoting growth in neighborhoods, support development where it enhances the streets character and proves its ability to accommodate traffic and foster pedestrian movement, and expands the range of goods and services offered, and identify and support a limited number of activity centers by preserving the mix and intensity of land uses. As everyone is familiar with this neighborhood, it has been somewhat of the up and coming area as far as retail development because of all the housing that has also gone into the neighborhood in the last 3 years. There is a large mix of businesses in this neighborhood. The applicants are going to be removing the boards from the old window opening and installing new glass. They are also proposing to clean the front of the building and install new signage over doorways and windows. All of the signage meets the code and there are no variances requested. There is one existing backlit sign that they are going to be using. The CUP for the theater we support as well as the variances. There is no parking on this site that could be accommodated. The building occupies almost all of the property. The applicant has identified several surrounding parking spaces that could be utilized for patrons. Typically, we have grandfather rights for a building for parking, but as it has been vacant, all of those grandfathered rights have been lost.

Jo Radzwill: Jo Radzwill, 507 2<sup>nd</sup> Avenue Southeast, and I can see them from my back window. After hearing the presentation and reading the material, I am in favor and would like to say that.

Commissioner Krause: Madame Chair, I don't have any problem with the conditional use permit or the parking variances, but we did receive a letter saying the developer did not appear before the neighborhood group. Could the developer tell us why?

Anthony Thompson: I am the managing director for the project. I made many phone calls and e-mailed all of the neighborhood associations. We met with several and did a 10-minute PowerPoint presentation that was part of the packet included for you. After several phone calls without a response, I was by the graces of a Council Member able to get an e-mail address and I e-mailed the association and told them about the presentation, and I got an e-mail back about a week and a half later saying that their agenda during the entire summer months was way too busy for us. To thank us for our interest, but that they did not have time for us, and I did not bring it with tonight, but I do have a copy of that e-mail at home.

Commissioner Krause moved staff recommendations for 10A, 10B and 10C (Schiff seconded).

The motion passed 6-0.

**Community Planning and Economic Development Department– Planning  
Division**

Conditional Use Permit and 2 parking Variances  
BZZ-1408

**Date:** November 17, 2003

**Applicant:** T.H.E. Theater and the Wash & Brush Up Company

**Address of Property:** 509 and 513 Central Avenue Northeast

**Contact Person and Phone:** Mark Webb, (612) 588-0839

**Planning Staff and Phone:** Hilary Watson, (612) 673-2639

**Date Application Deemed Complete:** October 15, 2003

**End of 60-Day Decision Period:** December 14, 2003

**End of 120-Day Decision Period:** Not applicable

Ward: **5** Neighborhood Organization: **Nicollet Island-East Bank Neighborhood Association**

**Existing Zoning:** C2 with the PO Pedestrian Oriented Overlay

**Proposed Use:** A live theater and a salon.

**Previous Actions:** None that are relevant to this application.

**Concurrent Review:**

**Conditional Use Permit:** to allow a live theater.

**Variance:** to reduce the required number of off-street parking spaces for a live theater from 13 to 0.

**Variance:** to reduce the required number of off-street parking spaces for a salon from 4 to 0.

**Background:** The applicant and his three business partners are proposing to convert two vacant storefronts located at 509 and 513 Central Avenue Northeast into a live theater and a salon. The businesses would be located on the first floors and the basements of the two locations. The upper two floors of both locations would remain vacant.

The T.H.E. Theater will be the home base location for T.H.E. Theater Company which will have 1 to 2 original productions a year. In addition, the space will be used by other theater companies, by art galleries and some musical and comedian acts. In the C2 zoning district live theaters require a conditional use permit. In addition, a parking variance is needed for this use.

The Wash & Brush Up Company will be a full-service salon offering hair care services and products, nail care and skin care professionals and tanning facilities. In the C2 zoning district salons are a permitted use. However, a parking variance is needed for this use.

**Neighborhood Review:** The Nicollet Island-East Bank Neighborhood Association was notified on October 24, 2003 of the proposed land use applications submitted by the T.H.E. Theater and the Wash & Brush Up Company. Staff has not received a response from the neighborhood organization.

**Attachments:**

1. Zoning map
2. Correspondence from applicant
3. Letters from surrounding property owners
4. Site plan and floor plans
5. Sign plans
6. Photographs of the site and surrounding area

**CONDITIONAL USE PERMIT** to allow a live theater.

**Findings as Required by the Minneapolis Zoning Code for the Conditional Use Permit:**

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

**1. Will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.**

The proposed use involves the rehabilitation of an existing vacant storefront building located at 509 Central Avenue Northeast into a live theater. Staff does not believe that a live theater in this location would be detrimental to the public health, safety and general welfare.

**2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

**Use**

In this area of Minneapolis there is a wide range of uses including; residential dwellings of varying densities, restaurants, bars, a mix of retail shopping stores, financial institutions and industrial uses. A live theater should not negatively impact the wide range of adjacent uses.

**Character**

The rehabilitation of the existing vacant storefront building will breathe life back into what used to be the Union nightclub which closed in 1994. The applicants are proposing to remove the boards from the old window openings and install new glass windows in their place. In addition, the applicants are proposing to clean the front of the building and install new signage over the doorways and windows.

### **Parking and Access**

The live theater requires a total of 13 parking spaces. The applicants are seeking approval of a parking variance to reduce the parking requirement to zero as there is no place on the property to accommodate parking.

### **3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The applicant will be working closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the rehabilitation to ensure that all procedures are followed in order to comply with city and other applicable requirements.

### **4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

The live theater requires a total of 13 parking spaces. The applicants are seeking approval of a parking variance to reduce the parking requirement to zero as there is no place on the property to accommodate parking.

### **5. Is consistent with the applicable policies of the comprehensive plan.**

According to the Land Use Policy Map, the area is designated as general commercial and is located near an Activity Center. Central Avenue is a designated Community Corridor and Hennepin Avenue is a designated Commercial Corridor up to the point where it intersects with Central Avenue where it then becomes a Community Corridor. According to the principles and policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Encourage reinvestment along major urban corridors as a way of promoting growth in all neighborhoods.
- Support development where it enhances the street's character, improves its ability to accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services offered.
- Identify and support a limited number of Activity Centers by preserving the mix and intensity of land uses and enhancing the design features of each area that give it a unique and urban character.

This proposal is consistent with the comprehensive plan.

### **6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of the conditional use permits, variances, site plan review and vacation.**

With the approval of the conditional use permit and the two parking variances the proposed uses will be in conformance with the requirements of the zoning code.

## **RECOMMENDATION OF THE COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT– PLANNING DIVISION:**

The Community Planning and Economic Development Department– Planning Division recommends that the City Planning Commission approve the conditional use permit to allow a live theater located at 509 Central Avenue Northeast subject to the following conditions:

1. The Planning Department shall review and approve the final elevation plan that shows where the windows will be located.
2. At least thirty percent of the wall between 2 and 10 feet that faces the street shall be windows of clear or lightly tinted glass that allow views into and out of the building.
3. The space between the applicant's property and the adjacent Totino's restaurant shall be cleaned up and a new decorative metal fence shall be installed between the two properties in order to keep people and litter out of the space. A fence shall be installed at each end of the narrow opening.
4. Proper lighting shall be installed near every entrance and exit.

**VARIANCE** to reduce the required number of off-street parking spaces for a live theater from 13 to 0.

### **Findings as Required by the Minneapolis Zoning Code for the Variance:**

1. **The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

**Parking reduction:** The applicants are seeking a variance to reduce the required number of off-street spaces for a live theater from 13 to 0. The applicants have indicated that there is no place on the property to accommodate for any parking. However, the applicants have identified several surrounding parking facilities that can be utilized by the patrons of the live theater to park their vehicles. In addition, the area is well serviced by public transit. Please note that because the building has been vacant for almost 10 years that all grandfathered rights to parking have been lost.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

**Parking reduction:** The fact that the building occupies the majority of the property is a unique circumstance of this property.

3. **The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

**Parking reduction:** This particular area of Minneapolis is located in a PO Pedestrian Oriented Overlay District. In the PO Overlay the creation of new parking areas are discouraged and pedestrian traffic and other modes of transportation are encouraged.

**4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

**Parking reduction:** Given that there are parking facilities in the surrounding area staff believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the proposed parking variance be detrimental to welfare or public safety.

#### **RECOMMENDATION OF THE COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT– PLANNING DIVISION:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the required number of off-street parking spaces for a live theater from 13 to 0 for the property located at 509 Central Avenue Northeast.

**VARIANCE** to reduce the required number of off-street parking spaces for a salon from 4 to 0.

#### **Findings as Required by the Minneapolis Zoning Code for the Variance:**

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

**Parking reduction:** The applicant is seeking a variance to reduce the required number of off-street parking spaces for a salon from 4 to 0. The applicants have indicated that there is no place on the property to accommodate for any parking. However, the applicants have identified several surrounding parking facilities that can be utilized by the patrons of the salon to park their vehicles. In addition, the area is well serviced by public transit. Please note that because the building has been vacant for almost 10 years that all grandfathered rights to parking have been lost.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

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#### **RECOMMENDATION OF THE COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the required number of off-street parking spaces for a salon from 4 to 0 for the property located at 513 Central Avenue Northeast.